

REFERENCE TITLE: juveniles; interrogations; electronic recording

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2636

Introduced by
Representatives Downing, Nelson, Prezelski, Sinema: Lopes, Senator
Brotherton

AN ACT

AMENDING TITLE 8, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
SECTION 8-309; RELATING TO JUVENILES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 8, chapter 3, article 1, Arizona Revised Statutes, is
3 amended by adding section 8-309, to read:

4 8-309. Custodial interrogations: electronic recording:
5 definitions

6 A. ANY ORAL, WRITTEN OR SIGN LANGUAGE STATEMENT THAT IS MADE BY A
7 JUVENILE DURING ANY INTERROGATION OF A JUVENILE WHO IS IN THE CUSTODY OF A
8 LAW ENFORCEMENT OFFICER OR LAW ENFORCEMENT AGENCY IS PRESUMED TO BE
9 INADMISSIBLE AS EVIDENCE AGAINST THE JUVENILE IN ANY ADJUDICATION PROCEEDING
10 UNLESS AN ELECTRONIC RECORDING IS MADE OF THE CUSTODIAL INTERROGATION IN ITS
11 ENTIRETY AND THE RECORDING IS SUBSTANTIALLY ACCURATE AND NOT INTENTIONALLY
12 ALTERED.

13 B. IF THE COURT FINDS THAT THE JUVENILE WAS SUBJECTED TO A CUSTODIAL
14 INTERROGATION IN VIOLATION OF SUBSECTION A, ANY STATEMENTS THAT WERE MADE BY
15 THE JUVENILE FOLLOWING THE CUSTODIAL INTERROGATION ARE PRESUMED TO BE
16 INADMISSIBLE, EVEN IF THE STATEMENTS WERE OTHERWISE MADE IN COMPLIANCE WITH
17 THIS SECTION.

18 C. THE STATE MAY REBUT A PRESUMPTION OF INADMISSIBILITY THROUGH CLEAR
19 AND CONVINCING EVIDENCE THAT THE STATEMENT WAS BOTH VOLUNTARY AND RELIABLE
20 AND THAT LAW ENFORCEMENT OFFICERS HAD GOOD CAUSE FOR FAILING TO
21 ELECTRONICALLY RECORD THE ENTIRE INTERROGATION. GOOD CAUSE INCLUDES ANY OF
22 THE FOLLOWING:

23 1. THE INTERROGATION TOOK PLACE IN A LOCATION OTHER THAN A PLACE OF
24 DETENTION AND WHERE THE REQUISITE RECORDING EQUIPMENT WAS NOT READILY
25 AVAILABLE.

26 2. THE JUVENILE REFUSED TO HAVE THE INTERROGATION ELECTRONICALLY
27 RECORDED AND THE REFUSAL ITSELF WAS ELECTRONICALLY RECORDED.

27 3. THE FAILURE TO ELECTRONICALLY RECORD AN ENTIRE INTERROGATION WAS
28 THE RESULT OF EQUIPMENT FAILURE AND OBTAINING REPLACEMENT EQUIPMENT WAS NOT
29 FEASIBLE.

30 D. THIS SECTION DOES NOT PRECLUDE THE ADMISSION OF A STATEMENT THAT IS
31 ANY OF THE FOLLOWING:

32 1. MADE BY THE JUVENILE IN OPEN COURT, BEFORE A GRAND JURY OR AT A
33 PRELIMINARY HEARING.

34 2. SPONTANEOUS AND NOT MADE IN RESPONSE TO A QUESTION.

35 3. MADE AFTER QUESTIONING THAT IS ROUTINELY ASKED DURING THE
36 PROCESSING OF A SUSPECT.

37 4. MADE DURING A CUSTODIAL INTERROGATION THAT WAS CONDUCTED
38 OUT-OF-STATE.

39 5. OBTAINED BY A FEDERAL LAW ENFORCEMENT OFFICER IN A FEDERAL PLACE OF
40 DETENTION.

41 6. GIVEN AT A TIME WHEN THE INTERROGATORS WERE UNAWARE THAT THE
42 JUVENILE WAS SUSPECTED OF COMMITTING A FELONY OFFENSE.

43 7. OTHERWISE INADMISSIBLE UNDER THIS SECTION BUT THAT IS USED ONLY FOR
44 IMPEACHMENT AND NOT AS SUBSTANTIVE EVIDENCE.

1 E. THE STATE SHALL NOT DESTROY OR ALTER ANY ELECTRONIC RECORDING THAT
2 IS MADE OF A CUSTODIAL INTERROGATION UNTIL THE FINAL DISPOSITION OF THE
3 JUVENILE'S CASE.

4 F. FOR THE PURPOSES OF THIS SECTION:

5 1. "CUSTODIAL INTERROGATION" MEANS ANY INTERROGATION THAT IS CONDUCTED
6 IN A PLACE OF DETENTION FROM THE TIME A JUVENILE IS GIVEN A MIRANDA WARNING
7 UNTIL THE JUVENILE IS RELEASED FROM CUSTODY.

8 2. "ELECTRONIC RECORDING" MEANS A MOTION PICTURE, AUDIOTAPE, VIDEOTAPE
9 OR DIGITAL RECORDING.

10 3. "PLACE OF DETENTION" MEANS A POLICE STATION, CORRECTIONAL FACILITY,
11 HOLDING FACILITY FOR PRISONERS OR OTHER GOVERNMENT FACILITY WHERE PERSONS ARE
12 HELD IN DETENTION IN CONNECTION WITH CRIMINAL CHARGES THAT HAVE BEEN OR MAY
13 BE FILED AGAINST THEM.